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February 8, 2019

Via Electronic Mail Only

Lisa Fernandez
KTVU
lisa.fernandez@foxtv.com

Re: SB 1421 Public Records Act Request

Dear Ms. Fernandez:

As you are aware, this office serves as the City Attorney for the City of San Leandro (the "City"). This letter responds to your January 17, 2019 request to City Attorney Richard Pio Roda, and follows the January 25, 2019 correspondence to you from Deputy City Clerk Caroline Hernandez extending the time to respond, for certain documents pursuant to the California Public Records Act ("CPRA"), Government Code sections 6250 *et seq.* In summary, you requested:

1. The names and reports of officers involved in police or deputy misconduct and covered under **SB 1421**. We are seeking records that date back to Jan. 1, 2017 in our initial request. We would like a prompt return of these records, as required by law. Please include video related to the incident.
2. As this process can be time-consuming, the second part of our request is asking for records going back to Jan. 1, 2014. We request that "Part 2" of our request be made public considering time restraints. Please include related video.
3. In addition, please provide how many complaints from the public about police misconduct regarding the items covered in SB 1421 have you gotten in this time period. (Back to Jan. 1, 2017 first, and then back to Jan. 1, 2014)
4. How many department-initiated internal affairs investigations regarding items covered in SB 1421 have you conducted in this time period?
5. How many claims and lawsuits have you received and settled regarding the items covered in SB 1421 in the same time period?

As a preliminary matter, items 3-5 of your request pose questions. The CPRA only obligates the City to produce records. Nevertheless, the City has no responsive records for claims and lawsuits that have been received and settled. As noted below, the City has five incidents for subjects related to SB 1421 where the City initiated internal affairs investigations. Finally, to the extent your request seeks the number of citizen complaints filed, such records are exempt from disclosure as disclosure is prohibited by state law. (*See* Gov. Code § 6254(k); Pen. Code § 832.7; Evid. Code § 1043, *et seq.*)

For the remainder of your request related to items 1-2, the City is interpreting this as seeking all potentially responsive records consistent with SB 1421 dating back to January 1, 2014. The City has reviewed its records and has determined that it has no records of sustained findings that a City police officer committed sexual assault or dishonesty-related misconduct. The City identified records from five incidents related to the discharge of a firearm or where the use of force by a peace officer or custodial agent against a person results in death, or in great bodily injury.

Personnel records of peace officers and records maintained by a local agency pursuant to Penal Code section 832.5, and information obtained from these records, are generally confidential and not subject to disclosure. (Penal Code § 832.7(a).) However, Penal Code section 832.7(b) provides that certain peace officer personnel records and related records are subject to disclosure pursuant to the CPRA.

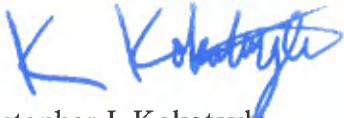
The City will make available those documents which respond to your request which are not otherwise exempt or privileged by applicable law, including the CPRA and Penal Code section 832.7(b). The City is conducting a review of the responsive documents, which are voluminous. The City anticipates completing its review of the first set of responsive records, and making those records available to you, within forty-five (45) days of the date of this letter.

When the City makes the responsive records available to you, it will redact all information determined to be privileged or exempt from disclosure under Penal Code section 832.7, the CPRA, or other applicable law. These redactions will include, but not be limited to: 1) personal data or information, other than names and work related information, of any peace officers identified in the documents, 2) information necessary to preserve the anonymity of complainants or witnesses, 3) information necessary to protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the public interest, and 4) any information for which there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer or another person.

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If you have further questions about this matter, or are able to refer me to controlling legal authority that supports a different result, please contact me at kkokotaylo@meyersnave.com or 510-808-2000. Otherwise, I or another City representative will contact you within forty-five (45) days as specified above.

Very truly yours,



Kristopher J. Kokotaylo
Assistant City Attorney

KJK:kjk

c: Jeff Tudor, Chief of Police (via e-mail)
Luis Torres, Captain (via e-mail)
Jamie Knox, Captain (via e-mail)
Joe Molettieri, Lieutenant (via e-mail)
Denise Lenz, Support Services Manager (via e-mail)
Leticia Miguel, City Clerk (via e-mail)
Caroline Hernandez, Deputy City Clerk (via e-mail)
Richard D. Pio Roda, City Attorney (via e-mail)

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